

**HERTEN, BURSTEIN, SHERIDAN, CEVASCO,
BOTTINELLI, LITT & HARZ, L.L.C.**

Counsellors at Law
747 Third Avenue, 37th Floor
New York, New York 10017
(212) 363-1380
Attorneys for Defendant

SKYLINE TRAVEL, INC. and ABY
GEORGE

Plaintiffs,

v.

SKYLINK TRAVEL INC.

Defendant.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Civil Action No.: 1:08-cv-991

ANSWER AND SEPARATE DEFENSES

**To The Honorable Judges of the United States District Court
for the Southern District of New York**

Defendant Skylink Travel Inc. ("Skylink") as and for its Answer to the Complaint, states and alleges as follows:

1. Defendant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 1 of the Complaint.
2. Defendant admits the allegations contained in Paragraph 2 of the Complaint.
3. Skylink shall neither admit nor deny the allegations contained in Paragraph 3 of the Complaint, and shall thereby leave plaintiff to its proofs.
4. Skylink shall neither admit nor deny the allegations contained in Paragraph 4 of the Complaint, and shall thereby leave plaintiff to its proofs.
5. Skylink denies the allegations contained in Paragraph 5 of the Complaint.
6. Skylink denies the allegations contained in Paragraph 6 of the Complaint.

7. Skylink shall neither admit nor deny the allegations contained in Paragraph 7 of the Complaint, and shall thereby leave plaintiff to its proofs.

8. Skylink denies the allegations contained in Paragraph 8 of the Complaint.

9. Skylink shall neither admit nor deny the allegations contained in Paragraph 9 of the Complaint, and shall thereby leave plaintiff to its proofs.

10. Skylink denies the allegations contained in Paragraph 10 of the Complaint.

11. Skylink denies the allegations contained in Paragraph 11 of the Complaint.

12. Skylink denies the allegations contained in Paragraph 12 of the Complaint.

13. Skylink denies the allegations contained in Paragraph 13 of the Complaint.

14. Skylink denies the allegations contained in Paragraph 14 of the Complaint.

15. Skylink denies the allegations contained in Paragraph 15 of the Complaint.

16. Skylink denies the allegations contained in Paragraph 16 of the Complaint.

17. Skylink denies the allegations contained in Paragraph 17 of the Complaint.

18. Skylink denies the allegations contained in Paragraph 18 of the Complaint.

19. Skylink denies the allegations contained in Paragraph 19 of the Complaint.

20. Skylink denies the allegations contained in Paragraph 20 of the Complaint.

21. Skylink denies the allegations contained in Paragraph 21 of the Complaint.

22. Skylink denies the allegations contained in Paragraph 22 of the Complaint.

COUNT I

BREACH OF CONTRACT

23. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

24. Skylink denies the allegations contained in Paragraph 24 of Count I of the

Complaint.

25. Skylink denies the allegations contained in Paragraph 25 of Count I of the

Complaint.

26. Skylink denies the allegations contained in Paragraph 26 of Count I of the

Complaint.

27. Skylink denies the allegations contained in Paragraph 27 of Count I of the

Complaint.

28. Skylink denies the allegations contained in Paragraph 28 of Count I of the

Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count I of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT II

MISREPRESENTATIONS

29. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

30. Skylink denies the allegations contained in Paragraph 30 of Count II of the Complaint.

31. Skylink denies the allegations contained in Paragraph 31 of Count II of the Complaint.

32. Skylink denies the allegations contained in Paragraph 32 of Count II of the Complaint.

33. Skylink denies the allegations contained in Paragraph 33 of Count II of the Complaint.

34. Skylink denies the allegations contained in Paragraph 34 of Count II of the Complaint.

35. Skylink denies the allegations contained in Paragraph 35 of Count II of the Complaint.

36. Skylink denies the allegations contained in Paragraph 36 of Count II of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count II of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT III

BREACH OF DUTY OF GOOD FAITH AND FAIR DEALINGS

37. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

38. Skylink denies the allegations contained in Paragraph 38 of Count III of the Complaint.

39. Skylink denies the allegations contained in Paragraph 39 of Count III of the Complaint.

40. Skylink denies the allegations contained in Paragraph 40 of Count III of the Complaint.

41. Skylink denies the allegations contained in Paragraph 41 of Count III of the Complaint.

42. Skylink denies the allegations contained in Paragraph 42 of Count III of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count III of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT IV

TORTIOUS INTERFERENCE WITH CONTRACT

43. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

44. Skylink denies the allegations contained in Paragraph 44 of Count IV of the Complaint.

45. Skylink denies the allegations contained in Paragraph 45 of Count IV of the Complaint.

46. Skylink denies the allegations contained in Paragraph 46 of Count IV of the Complaint.

47. Skylink denies the allegations contained in Paragraph 47 of Count IV of the Complaint.

48. Skylink denies the allegations contained in Paragraph 48 of Count IV of the Complaint.

49. Skylink denies the allegations contained in Paragraph 49 of Count IV of the Complaint.

50. Skylink denies the allegations contained in Paragraph 50 of Count IV of the Complaint.

51. Skylink denies the allegations contained in Paragraph 51 of Count IV of the Complaint.

52. Skylink denies the allegations contained in Paragraph 52 of Count IV of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count IV of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT V

CONVERSION

53. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

54. Skylink denies the allegations contained in Paragraph 54 of Count V of the Complaint.

55. Skylink denies the allegations contained in Paragraph 55 of Count V of the Complaint.

56. Skylink denies the allegations contained in Paragraph 56 of Count V of the Complaint.

57. Skylink denies the allegations contained in Paragraph 57 of Count V of the Complaint.

58. Skylink denies the allegations contained in Paragraph 58 of Count V of the Complaint.

59. Skylink denies the allegations contained in Paragraph 59 of Count V of the Complaint.

60. Skylink denies the allegations contained in Paragraph 60 of Count V of the Complaint.

61. Skylink denies the allegations contained in Paragraph 61 of Count V of the Complaint.

62. Skylink denies the allegations contained in Paragraph 62 of Count V of the Complaint.

63. Skylink denies the allegations contained in Paragraph 63 of Count V of the Complaint.

64. Skylink denies the allegations contained in Paragraph 64 of Count V of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count V of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT VI

TRADE DEFAMATION

65. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

66. Skylink denies the allegations contained in Paragraph 66 of Count VI of the Complaint.

67. Skylink denies the allegations contained in Paragraph 67 of Count VI of the Complaint.

68. Skylink denies the allegations contained in Paragraph 68 of Count VI of the Complaint.

69. Skylink denies the allegations contained in Paragraph 69 of Count VI of the Complaint.

70. Skylink denies the allegations contained in Paragraph 70 of Count VI of the Complaint.

71. Skylink denies the allegations contained in Paragraph 71 of Count VI of the Complaint.

72. Skylink denies the allegations contained in Paragraph 72 of Count VI of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count VI of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT VII

NEGLIGENCE

73. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

74. Skylink denies the allegations contained in Paragraph 74 of Count VII of the Complaint.

75. Skylink denies the allegations contained in Paragraph 75 of Count VII of the Complaint.

76. Skylink denies the allegations contained in Paragraph 76 of Count VII of the Complaint.

77. Skylink denies the allegations contained in Paragraph 77 of Count VII of the Complaint.

78. Skylink denies the allegations contained in Paragraph 78 of Count VII of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count VII of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

COUNT VIII

DEFAMATION

79. The defendant repeats and incorporates the preceding responses to the allegations of the Complaint as if they were set forth herein at length.

80. Skylink denies the allegations contained in Paragraph 80 of Count VIII of the Complaint.

81. Skylink denies the allegations contained in Paragraph 81 of Count VIII of the Complaint.

82. Skylink denies the allegations contained in Paragraph 82 of Count VIII of the Complaint.

83. Skylink denies the allegations contained in Paragraph 83 of Count VIII of the Complaint.

84. Skylink denies the allegations contained in Paragraph 84 of Count VIII of the Complaint.

WHEREFORE, defendant, Skylink Travel, Inc. demands judgment dismissing Count VIII of the Complaint, for attorney's fees, costs, and such other and further relief as the Court deems just, legal and equitable.

SEPARATIVE AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. Plaintiffs have failed to state a cause of action against the defendant.

SECOND AFFIRMATIVE DEFENSE

2. The defendant has not breached any duty due and owing to the plaintiffs.

THIRD AFFIRMATIVE DEFENSE

3. There was no contractual relationship between the parties.

FOURTH AFFIRMATIVE DEFENSE

4. The plaintiffs failed and refused to timely pay for the goods which the defendant sold to the plaintiffs, thereby justifying any action which the defendant took to protect its financial interests.

FIFTH AFFIRMATIVE DEFENSE

5. When the defendant attempted to contact the plaintiffs with respect to their habit of non-payment, the plaintiffs failed and refused to answer any of the inquiries posed in good faith by the defendant.

SIXTH AFFIRMATIVE DEFENSE

6. The claim is barred in whole or in part by the Doctrine of Estoppel.

SEVENTH AFFIRMATIVE DEFENSE

7. The Complaint is barred in whole or in part by the Doctrine of Laches.

EIGHTH AFFIRMATIVE DEFENSE

8. The allegations of the Complaint are barred in whole or in part by the Parol Evidence Rule.

NINTH AFFIRMATIVE DEFENSE

9. The allegations of the Complaint are barred in whole or in part by the Statute of Limitations.

TENTH AFFIRMATIVE DEFENSE

10. The allegations of the Complaint are barred in whole or in part by the failure of jurisdiction.

Respectfully submitted,
HERTEN, BURSTEIN, SHERIDAN, CEVASCO
BOTTINELLI, LITT & HARZ, L.L.C.

By: Daniel Y. Gielchinsky, Esq.
Daniel Y. Gielchinsky, Esq.

Dated: February 1, 2008

**HERTEN, BURSTEIN, SHERIDAN, CEVASCO,
BOTTINELLI, LITT & HARZ, L.L.C.**

Counsellors at Law
747 Third Avenue, 37th Floor
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Proof of Service

Daniel Y. Gielchinsky, Esq., being of full age, affirms as follows:

1. I am an associate of the captioned law firm, attorneys for defendant in this matter.
2. On February 1, 2008, I personally caused a true copy of the Answer to Complaint to be filed and served upon plaintiff's counsel via first class mail.

I hereby affirm that the forgoing statements made by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

By: Daniel Y. Gielchinsky, Esq.
Daniel Y. Gielchinsky, Esq.

Dated: February 1, 2008